Ex. but Court of Chancery

THE RULES AND ORDERS OF THE COURT OF EXCHEQUER.

LONDON,

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ORDERS and RULES of Proceedings in the Office of His Majeſty's Remembrancer of His Court of Exchequer *at* Weſtminſter, *which the Right Honourable the Lord Chief Baron, and the other Barons have thought fit at preſent to Ordain, and Publiſh, for the better and more ſpeedy carrying on the Buſineſs in that Office.*

I.

Engliſh Bills.

EVery *Subpæna* to Anſwer, Rejoin, or hear Judgment, ſhall be ſerved Perſonally, or left at the Defendants Dwelling-Houſe, or place of Reſidence

with one of that Family; or otherwiſe the ſame Writ, under Seal, ſhall be ſhewed there, to ſuch Perſon of ſuch Family, and a Ticket thereof left with ſuch perſon, containing the effect of the ſame Writ: And all ſuch Tickets upon a *Subpœna* to Anſwer, ſhall be written in the Exchequer hand in Parchment.

II.

Filing of Bills.

EVery Bill upon a *Subpœna* retornable immediate, is to be filed before the ſaid iſſuing of the ſaid Writ, and upon a *Subpœna* retornable on a day certain, the Bill to be filed within two days after the day of the Retorn; and all others on common Retorns, to be filed within four days after the laſt day of ſuch Retorn. If the Defendants do appear according to the reſpective

ſpective Retorns of the Writs: And if the Bill be not Exhibited accordingly, then the Defendant to be diſmiſſed with four Nobles Coſts.

III.

The day to be ſet down of the filing of every Bill, Plea, Demurrer, Exception, Replication, and Rejoinder.

THe day of Exhibiting of every Bill, and the putting in of all Pleas, Demurrers, Exceptions, Replications and Rejoinders, to be ſet upon the ſame, and to be then ſigned by the Attorney that is towards the ſame; and likewiſe the day of every Defendants appearance entred in the Book of Appearances, and no Bill to be accepted till the ſame be ſigned by the Attorney for the Plaintiff, and allowed by one of the Ba-

rons, except at the Suit of His Majesty's Attorney General.

IV.

Times of Appearances upon Subpœna's.

IF the Defendant do not appear on the next day after service of Process retornable Immediate, or on the second day, on Process retornable on a day certain, or on the fourth day of every Common Retorn; then upon Oath of due Service an Attachment is to be awarded; and all Affidavits to be made in *London* or *Middlesex*, and before any of the Barons, be written in Exchequer hand in Parchment.

V

V.

Touching Contempts.

THat after an Attachment is retorned for a Contempt by Engliſh Bill, the next Proceſs ſhall be an Attachment with Proclamation, and upon the retorn thereof, a Commiſſion of Rebellion, and upon retorn thereof ſuch other Proceedings as the Court upon Motion ſhall direct; and that the Coſts be paid by each Defendant named in every of the ſaid Proceſſes, that is to ſay, every perſon in an Attachment to pay ten ſhillings, every perſon in every Proclamation to pay twenty ſhillings, every perſon in every Commiſſion of Rebellion to pay two pounds thirteen ſhillings and four pence, and all Coſts to be paid either by the Plaintiff or Defendant, or their

Attachment 10 *s.*

Proclamation 20 *s.*

Commiſſion of Rebellion 2 *l.* 13 *s.* 4 *d.*

reſpective Attornies in Court, before any further proceedings be had on their behalf reſpectively; and that there be in all Proceſs of Contempt in *London* and *Middleſex*, and within
6 days. fifteen Miles thereof, ſix days;
10 days. and in all other Counties within ſixty miles of *London*, ten days;
15 days. and for all other Counties, fifteen days between the Teſte and Retorn of each Proceſs, unleſs the Court ſhall order Proceſs retornable immediate: And in any Caſe where the Sheriff ſhall retorn a *Cepi Corpus* upon Proceſs of Contempt, after a Rule of four days given to bring in the Body, and the Body not brought in, then upon a Motion,
A Meſſenger. a Meſſenger to go and bring in ſuch Defendant.

VI.

VI.

ANSWERS.

Time for Defendants to put in their Anſwers.

EVery Defendant ſhall put in his Anſwer within eight days after his Appearance, and the Bill filed as aforeſaid, if the Bill ſhall be filed in the Term, or within two days after, in caſe he doth not deſire a Commiſſion to Anſwer, which is to be entred under his Appearance; and to be retornable the beginning of the following Term, and no Defendant living within fifteen miles of *London*, to have a Commiſſion but by ſpecial Order of the Court; and all Defendants living within fifty miles of *London*, appearing upon a Proceſs retornable the firſt Retorn of *Eaſter* or *Michaelmas* Terms, and de-

15 Miles no Commiſſion.

Defendants to anſwer the ſame Term of the firſt retorn.

deſiring a Commiſſion to anſwer, are to retorn ſuch Commiſſion by the end ot the ſame Term; and every Defendant taking or craving a Commiſſion to anſwer, is to Rejoin *gratis*, and join in Commiſſion to examine Witneſſes, or elſe the Plaintiff to have a Commiſſion *ex parte* within a Week after the end of the Term; and in default of putting in his Anſwer as aforeſaid, an Attachment is to be awarded againſt him: And where a Commiſſion is prayed, but not taken out within three Weeks of the beginning of the next enſuing Term (except *Trinity* Term) in ſuch caſe Proceſs of Contempt to iſſue retornable the firſt day of the ſaid next Term.

Rejoin *gratis*.

Attachment three weeks before Term.

VII.

VII.

Touching Anſwers: No Demurrer if in Contempt.

EVery Defendant who ſhall not anſwer according to the Rule of the Court, but deſires a Commiſſion to take his Anſwer, on taking forth ſuch a Commiſſion, ſhall not put in a Demurrer or Dilatory Plea, but may put in an Anſwer or Plea in barr, unleſs otherwiſe ordered by Motion in Court.

VIII.

Payment of Coſts upon Contempts for want of Appearances or Anſwers.

EVery Defendant that is in Contempt, ſhall pay his Coſts to the Plaintiff, or his Attorney in Court before his

Appearance or Anſwer be accepted; and no Defendant in Contempt ſhall put in a Demurrer or Dilatory Plea.

IX.

Times of ſetting down Demurrers, Pleas, &c.

WHere the Defendant ſhall put in a Plea or Demurrer, the ſame is to be ſet down by the Defendant by the *Saturday* ſevennight following, or elſe the Plea and Demurrer is to ſtand over-ruled: And in caſe the Plea and Demurrer do ſtand over-ruled as aforeſaid, or be over ruled at the hearing, the Defendant is forthwith to pay to the Plaintiff, or his Attorney in Court, forty ſhillings Coſts, and after his Anſwer to rejoin *gratis*, and join in Commiſſion as aforeſaid: And in caſe the Plea or Demurrer be orderd to ſtand good, the Plaintiff to pay to the

Plea over ruled 40 *s.*

the Defendant, or his Attorney in Court, thirty ſhillings Coſts; and if the Demurrer be to the whole Bill, and be admitted by the Plaintiff; or allowed by the the Court, the Defendant to ſtand dimiſſed with Coſts: And if the Defendant will put in his Anſwer two days before the day appointed for the hearing of the ſaid Plea and Demurrer, or ſooner, and give notice thereof to the Plaintiffs Attorney, he is to pay to the Plaintiff twenty ſhillings Coſts.

Good, 30 *s.*

If the whole Bill, the Defendant diſmiſt.

If put in Anſwer two days, *&c.*

X.

Pleas of Outlawry.

UPon a plea of Outlawry, in caſe the ſame be admitted by the Plaintiff, or adjudged good, and the Outlawry after Reverſed, then the Plaintiff having paid the Coſts on the Plea, may take forth a new *Sub.*

New *Subpœna*

Subpæna againſt the Defendant to anſwer the ſaid Bill.

XI.

Admitting of Pleas and Demurrers to be good.

IF the Plaintiff, or his Attorney in Court ſhall two days before a Plea is appointed to be heard, or ſooner, give notice to the Defendant, or his Attorney in Court, that he will reply to the ſame, the ſaid Plaintiff ſhall then reply thereto within a Week without Coſts, or in default thereof, the Defendant to be diſmiſt with thirty ſhillings Coſts; and if the Plaintiff or his Attorney ſhall two days before a Plea or Demurrer is ſet down to be heard, or ſooner, give notice to the Defendant, or his Attorney in Court, that he doth admit the Plea or Demurrer to be good, and ſhall pay to the

If reply within a week, or Defendant diſmiſt, 30*s.*

the Defendant, or his Attorney in Court, twenty ſhillings Coſts, then the Defendant ſhall not need to attend his Plea or Demurrer.

XII.

If Demurrer on Miſtake.

IF the Demurrer be grounded upon ſome Error, Slip, or Miſtake in the Bill, the Plaintiff ſhall be permitted of courſe to amend the ſame, paying to the Defendant, or his Attorney in Court, twenty ſhillings Coſts: 20 *s.* Coſts. But if the Plaintiff ſhall not within four days, after ſuch Demurrer, put in, amend, or alter it, and pay the Coſts, then the Demurrer ſhall be determined in Court. Or determined in Court.

XIII.

XIII.

Pleas of Dependences of a former Suit.

IF the Defendant ſhall plead the dependency of a former Suit for the ſame matter complained of in the Bill, and the Plaintiff ſhall admit of the ſaid Plea, that then the Plaintiff ſhall forthwith pay to the Defendant, or his Attorney in Court, forty ſhillings Coſts: And if the Plaintiff ſhall not two days before the ſame is ſet down to be heard, or ſooner, admit the ſaid Plea, and pay forty ſhillings Coſts; then the ſame is to be heard in Court: And if upon hearing it ſhall be adjudged a good Plea, then the Plaintiff to pay three pounds Coſts.

40 *s.* Coſts.

3 *l.* If heard.

XIV.

XIV.

Exceptions.

EVery Plaintiff that ſhall take Exceptions to the Defendants Anſwer, ſhall put in his Exceptions to the ſame within four days within the Term next after the coming in of the Anſwer, and ſet down the ſame to be heard on the *Saturday* ſevennight following: in caſe the Defendant will put in his Anſwer before the time appointed for the hearing of the ſame Exceptions, he is to put in the ſame two days, or ſooner, before the time for the hearing thereof, and he is to pay but twenty Shillings Coſts; and if upon hearing the Exceptions, the Defendant be ruled to Anſwer, the Defendant ſhall forthwith pay to the Plaintiff, or his Attorney in Court, three pounds Coſts,

To be heard.

If anſwer, 20 *s.*

If heard, 3 *l.*

Costs, and shall put in his Answer within eight days, unless he desire a Commission to answer; in both which Cases he is to Rejoin *gratis*, and joyn in Commission as aforesaid. And if the Defendants Answer shall be adjudged good, the Plaintiff shall forthwith pay to the Defendant, or his Attorney in Court, forty shillings Costs. And all Answers coming in after the setting down of Causes, are to be taken as Answers of the succeeding Term.

Answer in 8 days.

Answer good, 40 *s.*

XV.

Second Insufficient Answer.

THat every Defendant putting in a Second Insufficient Answer, shall pay double Costs, as if the first Answer had upon hearing been adjudged insufficient. Every Defendant putting in a third Insufficient Answer,

Double Costs.

Anſwer, ſhall in like manner pay treble Coſts: And every Defendant putting in a fourth Inſufficient Anſwer, ſhall pay ſuch further Coſts, as the Court ſhall think fit, to the Plaintiff, or his Attorney in Court, and ſhall ſtand committed to the *Fleet*, and be examined upon Interrogatories.

Third, treble Coſts.

Fourth, as Court ſhall order.

XVI.

Proceedings upon Proceſs of Contempt upon Inſufficient Anſwers.

EVery perſon in Contempt, for not appearing, and that ſhall after clear his Contempts and appear, but ſhall incur any other Contempts for not anſwering according to the Rules, ſhall pay the like Coſts, and have the Proceſs of Contempt continued againſt him till there ſhall be a ſufficient Anſwer put

put in, as if he had not appeared: And the like Rule where persons are in Contempt for not Answering until they have fully answered; but upon clearing his Contempt, he is to have an allowance of what Costs he paid upon the former Contempt.

XVII.

Plaintiffs dismission of the Bill before Replication.

IF a Plaintiff will dimiss his own Bill before he Reply, he shall pay forty shillings Costs, unless the Court shall think fit upon Motion to encrease the same.

XVIII.

XVIII.

Proceedings on the bringing to the Bar for want of Appearance or Answers.

IF a Defendant be brought to the Barr by *Habeas Corpus* for not appearing, his Appearance shall be then Recorded, and he forthwith charged with the Bill the first time, and stand committed; and if afterwards he do not answer according to the course of the Court, being brought twice more to the Barr by *Habeas Corpus*, or by Rule of Court, and charged with the Bill each time, the Bill shall be taken *pro Confesso* against him. *Pro Confesso.*

XIX.

XIX.

Hearing Cauſes upon Bill and Anſwer.

IF the Plaintiff ſhall ſet down his Cauſe to be heard upon Bill and Anſwer, and ſerve the Defendant to hear Judgment; and if upon hearing the Court doth not think fit to make any Decree upon Bill and Anſwer, and ſhall permit the Plaintiff to reply, he ſhall forthwith pay to the Defendant, or his Attorney in Court, five pounds Coſts for his unjuſt vexation, and Reply within eight days, or elſe the Defendant to ſtand diſmiſſed with the ſaid five pounds Coſts; and if he doth Reply, the Defendant is to Rejoyn *gratis*, and joyn in Commiſſion, which Commiſſion ſhall be taken forth to be executed the next

Plaintiff permitted to reply.

5 l. Coſts.

Reply in eight days.

next Vacation, except in the Vacation after *Easter* Term.

XX.

Commissions for want of Replication, or for not proceeding after Replication.

IF the Plaintiff doth not Reply to the Defendants Answer some time the next Term, after the Answer is put in, the Defendant may the Term following give a Rule to be dismissed within a Week; and if the Plaintiff shall not within that time Reply to the Defendants Answer, the Defendant shall be dismissed with five Marks Costs; but if the Defendant doth give a Rule to be dismissed for want of a Replication, at the coming in of such Replication the Defendant is to Rejoyn *gratis*, and join in Commission; and if the Plaintiff doth not

To Rejoyn *gratis*.

doth not the ſame Term, or the Term following take forth a Commiſſion to examine Witneſſes, the Defendant may either take forth a Commiſſion, *ex parte*, or elſe be diſmiſſed with five pounds Coſts: And in Caſes where the Defendant ſhall give a Rule, either for not Replying to the Defendants Anſwer, or for not Proceeding after Replication, if there be not a Week in Term, the Plaintiff to have a day to ſhew Cauſe till the ſetting down of Cauſes.

If don't take Commiſſion, Defendant diſmiſt with 5 *l.* Coſts.

Time for Rule. Setting down Cauſes.

XXI.

Examination of Witneſſes.

IF the Defendant being ſerved with a *Subpœna* to Rejoyn, or appearing *Gratis*, to rejoyn and join in Commiſſion, ſhall not deliver Commiſſioners Names to the Plaintiffs Attorney by the end of that Term, and ſtrike

ſtrike Names within four days after the end of that Term, the Plaintiff may take a Commiſſion *ex parte*.

Time for Defendants to join in Commiſſion.

XXII.

Execution of Commiſſions to examine Witneſſes.

WHen a Commiſſion is taken out, if through the default of the party, having the carriage of the ſame, or of his Commiſſioners, the ſame be not executed, he ſhall pay unto the other party ſuch reaſonable Coſts as he or his Solicitor ſhall, upon Oath, make appear he was put unto by ſuch failure, and ſhall renew ſuch Commiſſion at his own charge, wherein the adverſe party may join, and Croſs examine ſuch Witneſſes, if he think fit; but if he examine any Witneſſes of his own, then he is to pay the Half Fee of

the

the Commiſſion, and the adverſe party may alſo have a *Duplicate* of ſuch Commiſſion; and if the party taking out of ſuch renewed Commiſſion, do not give notice to execute his Commiſſion on eight days before the Return thereof, that then the adverſe party, upon four days notice may execute his Commiſſion, and no ſecond Commiſſion to be awarded without Motion in Court.

Commiſſion to be eight days before retorn'd.

XXIII.

Renewed Commiſſions to be Executed.

IF at the inſtance of a Defendant, a Commiſſion to examine Witneſſes is ordered to be renewed, either for a default by him, or his Commiſſioners, or becauſe he did not examine all his Witneſſes by the firſt Commiſſion, he ſhall at his peril

examine

examine all his Witneſſes by ſuch renewed Commiſſion, or in Court by the Return thereof; and no more Commiſſions to iſſue, except it be for the examination of Witneſſes beyond the Seas, or by further order of Court: And that no Witneſſes ſhall be examined at the hearing of any Cauſe *viva voce*, without ſpecial Order of this Court, made before the Hearing of the Cauſe.

No more Commiſſions, except for Witneſſes beyond Sea, or order of Court.

XXIV.

No Commiſſion in London.

THat no Commiſſion *ad examinandum Teſtes* be exhibited in *London*, or within ten miles thereof, without ſpecial Order firſt obtained upon *Affidavit* made of the Parties inability to travel, or other good matter: And that all Depoſiti-

ons taken by Commiſſion in *London*, or within ten miles thereof, without ſpecial Order as aforeſaid, ſhall ſtand ſuperſeded, and ſuppreſſed *ipſo facto*, and not allowed to be read in Evidence at the hearing of the Cauſe; and after Interrogatories are exhibited of either ſide, neither Party ſhall add to, or alter the ſame, without leave of the Court.

No Interrogatories added without leave of the Court.

XXV.

Publication.

PUblication to paſs within one Week after every Commiſſion returned, or the Witneſſes examined in Court, if no Cauſe be ſhewed to the contrary; and where a Rule for Publication ſhall be given, there not being not a Week in Term, day ſhall be given to ſhew

A Week.

shew Cause to the contrary at the setting down of Causes.

Or setting down of Causes.

XXVI.

Use of Depositions of Witnesses.

DEpositions of Witnesses in several Causes, which are meerly Cross Causes (that is to say) between the same Parties, and touching the same Matter, may be used at the hearing of both Causes coming to hearing together, without any Motion or Order in that behalf.

XXVII.

Setting down of Cauſes in London, *or within ſixty Miles, in* Eaſter *or* Michaelmas *Term.*

NO Cauſes ſhall be put into the General Bill of Cauſes, to be ſet down to be heard, till Publication is paſt, except it be by ſpecial Order of Court; and when Publication is paſt, the Cauſe to be ſet down for the Term following, except in Caſes where the Parties live in *London*, or within ſixty Miles thereof; wherein if a Replication be filed in *Trinity* or *Hillary* Terms, and Publication do paſs the firſt Week of *Michaelmas* or *Eaſter* Terms following, ſuch Cauſe may be ſet down to be heard the laſt day of Cauſes of

If Publication paſt the firſt Week in Term.

of ſuch *Michaelmas* or *Eaſter* Terms.

XXVIII.

Subpœna's *to hear Judgment.*

Subpœna's to hear Judgment ſhall be ſerved in *London*, or within ſixty miles of the City of *London*, ten days before the day of hearing of the ſaid Cauſe; and in more remote places, fourteen days before ſuch day of hearing, except in *Trinity* Term, and then the Defendants inhabiting in the more remote Parts, to have but ten days notice.

London, 10 days.

Remote 14 days.

Defendant, 10 days.

XXIX.

Hearings.

IF the Defendant ſhall be ſerved to hear Judgment, and make Default, and hath day given him to ſhew Cauſe why a Decree ſhould not be made againſt him, ſuch Defendant, or his Counſel ſhall not be heard therein, till he firſt pay down to the Plaintiff, or his Attorney in Court 5 *l.* Coſts; and in caſe the Defendant doth attend the Hearing, being duly ſerved, and that appear to the Court; and if the Plaintiff doth not attend, the Cauſe to be put out of the Paper, and the Plaintiff to pay to the Defendant 5 *l.* Coſts; and the Defendant may ſet down the Cauſe to be heard the next Term *ad requiſitionem Defend'*, the Plaintiff to pay

5 *l.* Coſt if the Defendant attend not.

Plaintiff to pay 5 *l.* before heard.

pay the ſaid 5 *l.* Coſts before his Counſel be heard.

XXX.

Rules on Hearing on Motions.

THat the Judgment pronounced on every Hearing, and the Rule given on every Motion, ſhall be truly taken, and fairly written by His Majeſty's Remembrancer, or his Deputy, and openly read before another Cauſe or Motion be begun, to the end if the ſame be miſtaken, it may be rectified by the Court. Minutes.

XXXI.

Entries of Decrees and Diſmiſſions.

AND every Decree or Order of Diſmiſſions made by the Court, that is not entred

Next Term.

some time before the last day of the next Term, after the pronouncing thereof, shall not be entred, but upon Motion in open Court.

XXXII.

Decrees and Orders.

Short.

EVery Order and Decree to be drawn up as short as with conveniency they can be, without reciting the former Orders and Pleadings at large.

XXXIII.

Bills of Review.

Pay Costs, and enter into a Recognizance.

WHere a Bill of Review shall be brought, the Plaintiff in such Bill shall pay the Costs taxed, or due in the former Cause, and enter into a Recognizance of such Penalty as

as the Court ſhall appoint, to perform the ſame, in caſe the ſame ſhall be affirmed, and to pay ſuch further Coſts as this Court ſhall direct, otherwiſe the Defendant not to be enforced to give any Anſwer to ſuch Bill, or incur any Contempts for his neglect therein. No Contempts.

XXXIV.

Proceedings upon Bills to Examine Witneſſes in perpetuam rei memoriam.

WHere a Bill ſhall be exhibited to examine Witneſſes *in perpetuam rei memoriam*, and the Defendant being ſerved with Proceſs, doth not appear, but ſtands in Contempt, the Plaintiff may then upon Motion have a Commiſſion to examine his Witneſſes *de bene eſſe*; and where the Defendant ſhall

have appeared, he may join in Commiſſion, if he think fit, and Croſs-Examine the Plaintiffs Witneſſes, he ſtriking Commiſſioners Names within four days after the making of the Order for ſuch Commiſſion: And after the Defendant hath anſwered ſuch Bill, the Plaintiff is then to Reply, and re-examine ſuch of his ſaid Witneſſes, formerly examined, as ſhall be then living; and upon the retorn of the ſame Commiſſion, and the Depoſitions thereby taken, together with the Depoſitions of ſuch of the Witneſſes formerly examined, as were before the Execution of ſuch ſecond Commiſſion dead, are fortwith to be publiſhed.

Defendant croſs examined.

Plaintiff to reply.

Depoſitions of dead and other, &c.

XXXV.

XXXV.

Contempt in not performing Orders and Decrees.

THat no Perſon ſhall be in Contempt for not performing any Order or Decree of the Court, until he ſhall be ſerved therewith, by delivering a true Copy thereof, and ſhewing the Decree or Order under the Seal of the Court unto ſuch perſon, and if the Party cannot be found to be perſonally ſerved, upon Oath firſt made thereof, and an Order of Court thereupon, the Writ of Execution to be left at his Houſe, or place of his laſt abode, or a Copy thereof with his Clerk in Court, and that to be good Service to bring him in Contempt.

Under Seal perſonally, or an Oath.

Left at Houſe, or Clerk in Court.

XXXVI.

XXXVI.

Times for coming in of Reports, and for filing of Exceptions to Reports.

WHere the Court upon hearing any Cauſe, ſhall refer any Matter of Account, or other Matter to be Reported to the Court, ſuch Report ſhall be made, and delivered to the ſworn Clerk concerned in the Cauſe, ſix days before the time appointed for hearing of the Cauſe upon ſuch Report, who is forthwith to give notice to the Clerk on the other ſide; and if the adverſe Party will take Exceptions to the ſame, he ſhall put in ſuch Exceptions two days at leaſt before the hearing of the Cauſe.

To come in 6. days.

Exceptions 2 days.

XXXVII.

XXXVII.

Not performing Decrees.

WHere ſeveral things are to be performed by a Decree on the part of the Defendant, and the Defendant is brought in upon Contempt for not performing ſome part of that Decree, he is not to be enlarged until he ſhall perform that part of the Decree that is to be preſently done, and give ſecurity by Recognizance with Sureties, as the Court ſhall order, to perform the other part. Recognizance.

XXXVIII.

XXXVIII.

Examination of Perſons in Contempt.

WHere any perſon appeareth in Court, upon Proceſs of Contempt, to be examined upon Interrogatories, he is to ſtand committed to the *Fleet*, unleſs he acknowledge a Recognizance of 100 *l.* or more (if the Caſe require it) to appear *de die in diem*, and not to depart without licenſe of the Court, and then Interrogatories ſhall be exhibited for his Examination within four days after ſuch his appearance; and in default thereof the party proſecuted ſhall be diſmiſſed with Coſts; upon which Examination, if the Defendant deny the Contempt, or the ſame doth not clearly appear, the Proſecutor

Stand Committed. Recognizance.

Interogatories to be exhibited 4 days after appearance, or diſmiſt.

cutor may upon Motion Examine Witneſſes for proof thereof upon notice given to the Defendant, or his Attorney in Court, or by Commiſſion, for which he may name a Commiſſioner, but is not to examine any Witneſſes upon his part, unleſs he ſhall ſatisfie the Court upon ſome matter of Fact neceſſary to be proved for clearing the truth: In which caſe the Court, if there be Cauſe, will give leave to him to examine Witneſſes to ſuch particular Points, ſo directed by the Court; and the other ſide may Croſs-Examine the ſaid Witneſſes.

A Commiſſion on Motion.

XXXIX.

XXXIX.

Touching the ſame.

AND when a Commiſſion is taken out to prove a Contempt, the Party proſecuted ſhall have a day to appear upon his ſaid Recognizance till the retorn of the Commiſſion: And if the Commiſſion be not retorned within a Week, after the retorn thereof, the Party proſecuted ſhall be diſcharged of his Contempt with Coſts, and his Recognizance vacated.

XL.

Beating or Abuſing the Perſons ſerving the Proceſs.

WHere any Oath ſhall be made of Miſdemeanor of Beating or Abuſing the Party upon

upon ſerving the Proceſs, or Order of the Court, the Party offending ſhall ſtand Committed upon Motion, and no Examination is in that Caſe to be admitted; and when an Affidavit ſhall be made by two Perſons of Scandalous and Contemptuous Words againſt the Court, or the Proceſs thereof, the Party offending ſhall likewiſe ſtand Committed upon Motion, without any further Examination; and a ſingle Affidavit in ſuch Caſe ſhall be ſufficient to ground an Attachment, whereupon ſuch Perſon ſhall be brought to be examined; and if the Miſdemeanor ſhall be confeſſed, or proved againſt him, he ſhall ſtand Committed until he ſatisfie the Court touching his ſaid Miſdemeanor, and pay the Proſecutor his Coſts: But if he ſhall not thereof be found guity, ſave by the Oath of the Party that made the

No Examination.

Two Perſons, Contemptuous Words.

Single Affidavit.

Stand Committed.

the Affidavit, he ſhall be there-of diſcharged, yet without any Coſts, in reſpect of the Oath made againſt him, as afore-ſaid.

XLI.

Injunctions.

THat no Injunction be granted, or day given to ſhew Cauſe why the ſame ſhould not be granted, but upon Motion in open Court, ſatisfying the Court with ſuch Matter as may induce the Court in Juſtice to grant the ſame, and where there are Exceptions put in to an Anſwer, the Plaintiff may move for an Injunction upon opening of a materi-al Exception to the Court.

XLII

XLII.

Taxing of Coſts.

THat in all Caſes where Coſts are to be Taxed upon a Bill of Coſts in the Office of His Majeſty's Remembrancer, his Majeſty's Remembrancer is to Tax the Coſts, but ſhall not Tax the ſame without notice given to the Attorneys on both ſides to attend him.

XLIII.

Bills of Review.

IF a Defendant be ſerved with Proceſs upon a Bill of Review, and ſhall not Anſwer, or deſire a Commiſſion within eight days, the former Proceedings ſhall ſtand revived upon Motion. Revived 8 days.

XLIV.

XLIV.

Serving of Sheriffs, or Under-Sheriffs with Orders.

THat where a Sheriff, or Under-Sheriff is ordered to perform any thing by the Order of the Court, ſerving of the Sheriff, or Under-Sheriff with a true Copy of ſuch Order under the Seal of the Court, and Affidavit made thereof, and Warrant thereupon from one of the Barons, ſhall be a ſufficient Service to bring the ſaid Sheriff, or Under-Sheriff in Contempt if he do not perform the ſame.

Under Seal.

XLV.

XLV.

Sheriff to name Attorneys.

THat all Sheriffs ſhall have and aſſign their able and ſufficient Attorney and Deputy of this Court, the ſame Court ſitting, which ſhall attend this Court from time to time, to receive and return the Writs and Commandments of the ſame, according to the Statute in that behalf provided; and that every Sheriff upon the entring into his Recognizance, do declare and deliver unto one of the ſworn Clerks in the Office of His Majeſty's Remembrancer, the Name of ſuch Attorney or Deputy, ſo by him aſſigned.

XLVI.

XLVI.

Rules to Sheriff to Retorn Proceſs.

AND where a Sheriff neglects to retorn any Proceſs delivered to him, Rules may be given the laſt day of the Term for to retorn ſuch Writs by the Sealing-day, or to be amerced 40 *s.*

Sealing-day, or amecred 40 *s.*

XLVII.

Paupers.

IF any Perſon ſhall petition to be admitted in *Forma Pauperis*, he ſhall bring a Certificate, under his Counſels hand upon his Petition, that he hath probable Cauſe of Suit, and

Certificate under Counſels Hand.

nd make uſual Oath before Affidavit.
be admitted, and ſuch Coun-
l to be aſſigned for one.

XLVIII.

Notes of Informations.

THat according to an Or-
der of Court made the
ond day of *July* 1686. upon
e making out of any Proceſs
on any Information to be
hibited in the Office of His
ajeſty's Remembrancer in this
ourt for the Seiſure of any Seiſures.
oods, there ſhall be a brief
ote or Entry made by one
f the ſworn Clerks, in a Book
o be prepared for that pur-
oſe, of the Name of the Par-
y that ſeized the ſame, and
f the Quality of the Goods
eized, together with the day
f the Month when the ſame
is

Perſonal Informations.

is Exhibited; and that upon the making out of any Proceſs upon perſonal Informations upon Penal Statutes, there ſhall be a brief Note or Entry made by one of the ſworn Clerks, in the ſaid Book, of the Names of the Plaintiffs and Defendants, together with the Day of the Month when the ſame is Exhibited, unto which Book ſuch perſon as is, or ſhall be imployed on behalf of His ſaid Majeſty for the recovering and getting in His ſaid Majeſty's Moiety, or part of ſuch Forfeitures, may have recourſe and free liberty to inſpect and peruſe the ſame.

Majeſty's Agent to inſpect.

XLIX.

XLIX.

Records of Recoveries and Fines to be perfected.

THat the Records of the Recovery of all Goods or Merchandizes ſeiſed for being prohibited or unaccuſtomed, and all Fines rated for the ſame ſhall be perfected and finiſhed by the firſt day of the next Term following the Term of ſuch Recoveries had, or Fine rated, to the end the ſame may be drawn down into the Pipe.

L.

Pleadings upon Perſonal Informations.

Plead 4 days next Term.

EVery Defendant appearing upon an Information, or *Quo Warranto*, except Informations of Seiſure, is to plead to the ſame within four days of the next Term after his appearance to the ſame, or in default thereof, Judgment by *Nihil Dicit* to be entred: And where a Defendant being ſerved with Proceſs to appear to an Information, ſhall neglect to appear the ſame Term, and is taken upon Proceſs of Contempt, retornable the following Term, he ſhall then Plead

Four days after appearance on Contempt.

within four days after his appearance.

LI.

Contempts, &c.

THat after an Attachment is Retorned upon any Contempt upon an Information, the next Proceſs ſhall be an Attachment with Proclamation, and upon the Retorn thereof, a Commiſſion of Rebellion, and then upon Motion, a Serjeant at Arms, and the ſame Coſts are to be paid upon Contempts upon Informations, as is directed before upon proſecution of Engliſh Bills. Same Coſts as by Bill.

LII.

Joyning in Demurrer.

WHen a Demurrer is filed, the Defendant ſhall Joyn in Demurrer within ſix days, or elſe Judgment by *Nihil Dicit* to be entred.

LIII.

Informations and other Matters of Law.

WHen a Replication is filed, the Defendant ſhall Rejoyn within four days, or elſe Judgment by *Nihil Dicit* to be entred.

LIV.

LIV.

Rules upon Retorns of Scire Facias.

UPon Writs of *Scire Facias* Retorned the laſt day of the Term, and upon Iuquiſitions then Retorned, whereon Goods are ſeiſed, Rules may be given for the Defendants to appear upon ſuch Writs of *Scire Facias*, and to claim the property of ſuch Goods ſeiſed by the Sealing-day after each Term, and in default thereof, Proceedings to be had in each Caſe reſpectively, as where there are days in Term for giving ſuch Rules.

LV.

Notice of Trials.

NOtice of all Trials in *London* or *Middleſex* to be given ſix days before ſuch Trials, and of Trials at Aſſiſes, notice to be given within ſix days after the the end of the Term.

LVI.

Entring Judgment after Trials.

UPon the Retorn of every *Poſtea*, Judgment to be entred within four days upon a Rule given, if nothing be ſaid to the contrary, upon Trials in *London* and *Middleſex*, and within the Term, Judgment to be entred of the ſame Term; and upon Trials at the Bar, Judgment to be entred within four days after ſuch

ſuch Trial, if there be ſo many days in Term; and if there be leſs than four days in Term, then Judgment to be entred the laſt day of the Term.

LVII.

Irregularities in Pleadings.

THat all differences touching Irregularities in Proceedings, or upon the Rules of the Court, ſhall be determined by His Majeſty's Remembrancer, or his Deputy, upon hearing the Attorneys on both ſides, who is to ſettle the ſame if he can, and give Coſts where he ſhall find the fault, if not, the Court to determine the ſame.

LVIII.

LVIII.

THat His Majesty's Remembrancer or his Deputy, and the sworn Clerks in the Office, do diligently attend in Court, and do give an Account touching any Proceedings in Court, as they shall be required.

Ex. E 886

Some

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